

**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF CALIFORNIA**

WAMC COMPANY, INC. doing  
 business as Cal West Enterprises,

Plaintiff,

vs.

MIDWEST INSURANCE  
 COMPANY; ILLINOIS MIDWEST  
 INSURANCE AGENCY, INC.; STAR  
 INSURANCE COMPANY; and  
 DOES 1 through 100, inclusive,

Defendant.

CASE NO. 13-cv-2649 JM (JLB)

**ORDER GRANTING UNOPPOSED  
 MOTION TO AMEND THE  
 COMPLAINT**

On April 1, 2014, Plaintiff filed a motion for leave to file a second amended complaint. (Dkt. No. 17). Plaintiff attached the proposed second amended complaint as an exhibit to the motion. (Dkt. No. 17-4). Defendants have not filed an opposition to Plaintiff's motion. Having reviewed Plaintiff's request, the court finds this matter suitable for resolution on the papers without oral argument pursuant to Civil Local Rule 7.1.d.1. Based on the following, Plaintiff's motion is hereby GRANTED.

Under Federal Rule of Civil Procedure 15(a)(2), parties may amend their pleadings with either the opposing party's written consent or the court's leave. Rule 15(a)(2) further states "the court should freely give leave when justice so requires." Generally, leave to amend should be granted "absent bad faith, futility, undue prejudice or excessive delay." AmerisourceBergen Corp. v. Dialysist West, Inc., 465 F.3d 946,

1 951 (9th Cir. 2006)(citations omitted).

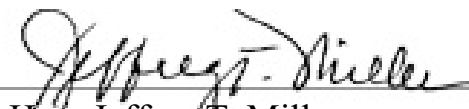
2 In the proposed second amended complaint, Plaintiff seeks to add a request for  
3 punitive damages and attorney's fees in the fourth cause of action and a request for  
4 punitive damages in the sixth cause of action. Plaintiff asserts these "remedies were  
5 not included in the original complaint in an effort to conservatively plead the case until  
6 more facts were known." (Pl. Mot. at 1, 7). Plaintiff also seeks to replace paragraphs  
7 36-71 of the first amended complaint with paragraphs 36-74, as proposed in the second  
8 amended complaint. (Id. at 7). Plaintiff indicates these paragraphs are designed to  
9 better describe the facts supporting its request for punitive damages and also provide  
10 a more detailed pleading for the benefit of Defendants and the court. (Id.) Lastly,  
11 Plaintiff wishes to add a reference to Exhibit 1 at the end of paragraph 35. Exhibit 1  
12 was also attached to the first amended complaint. Having reviewed the first amended  
13 complaint and the proposed second amended complaint, these requests do not implicate  
14 any of the factors that may weigh against granting leave to amend. (Id.)

15 Moreover, Defendants have not offered any argument to support denying  
16 Plaintiff's request. Local Rule 7.1.e.2. requires a party opposing a motion to file an  
17 opposition or statement of nonopposition within fourteen calendar days of the noticed  
18 hearing. Failure to file an opposition in compliance with these rules "may constitute  
19 a consent to the granting of a motion" under Local Rule 7.1.f.3.c.

20 In light of these considerations, the court grants Plaintiffs' unopposed motion for  
21 leave to file a second amended complaint. Plaintiffs may file the second amended  
22 complaint within twenty days of the filing of this order. The second amended  
23 complaint may not add new parties or assert new claims and should be consistent with  
24 the proposed second amended complaint attached to Plaintiff's motion.

25 IT IS SO ORDERED.

26 DATED: July 1, 2014

27   
28 Hon. Jeffrey T. Miller  
United States District Judge